

321 CMR: DIVISION OF FISHERIES AND WILDLIFE
**321 CMR 10.00: MASSACHUSETTS ENDANGERED SPECIES ACT
REGULATIONS**

10.04 Taking and Possession of Species on State and Federal Lists

(1) Prohibitions. Except as otherwise provided in 321 CMR 10.04(2) and (3), no person may take, possess, transport, export, process, sell or offer for sale, buy or offer to buy, nor shall a common or contract carrier knowingly transport or receive for shipment, any plant or animal or part thereof on the state list or federal list; provided, however, that ownership, sale, or purchase of real property on which such plant or animal occurs is not prohibited.

(2) Exemptions.

(a) In Transit. Any person may transport, possess or sell, in accordance with the terms of any necessary state and federal permit, any plant or animal or part thereof on the state list or federal list, which enters Massachusetts from another state or from a point outside the territorial limits of the United States; provided that such plants or animals or parts thereof are lawfully possessed outside of Massachusetts; and provided further that such plants or animals are possessed not more than 24 hours in Massachusetts and are transported through Massachusetts while in transit to another destination outside of Massachusetts. For the purposes of 321 CMR 10.04(2)(a), necessary state and federal permits shall include, but not be limited to, those required under M.G.L. c. 131 and the regulations promulgated thereunder and any other state or federal permit required for the possession or sale of species on the state list or federal list.

(b) Plant Propagation and Nursery Sales. A person may take, possess, propagate, buy, or sell all plants or parts thereof on the state list or federal list in cultivation, provided that such plants or parts thereof are lawfully held under other state or federal laws and shall not have been taken from the wild in Massachusetts after March 27, 1991 or after the time of subsequent listing of said species pursuant to 321 CMR 10.03.

(c) Animal Possession Prior to Effective Date. Any person may possess any animal, or part thereof, on the state list or federal list, that was lawfully possessed on March 27, 1991 or at the time of subsequent listing of said species pursuant to 321 CMR 10.03, provided however, that no such animal or part thereof may be sold or traded for value.

(d) Federally Authorized Uses of Species on the Federal List.

1. Any person may, in accordance with all applicable federal laws, possess, sell, buy, or trade any finished products, including but not limited to carvings, clothing, jewelry, and similar goods, made from species on the federal list.

2. Any person may, in accordance with all applicable federal laws, possess parts of plants or animals on the federal list for ceremonial and religious purposes.

(3) Permits for Taking and Possession of Species. Any violation of a permit is a violation of M.G.L. c. 131A, § 2.

(a) Scientific and Educational Use Permits. The Director may in accordance with provisions of M.G.L. c. 131, § 4 and c. 131A, § 3 permit the taking, possession, purchase, sale, transportation, exportation or shipment of any species on the state list for scientific or educational purposes, including but not limited to scientific collecting, educational use, wildlife rehabilitation, salvage, or bird-banding.

(b) Conservation and Management Permit. The Director may in accordance with provisions of M.G.L. c. 131A, § 3 permit the taking of a species on the state list for conservation or management purposes pursuant to the criteria and process set forth in 321 CMR 10.23.

(c) Captive Propagation of State Listed Species.

1. Animals. The Director may permit, in accordance with provisions of M.G.L. c. 131, § 23, and 321 CMR 2.12, the artificial propagation and maintenance of animals on the state list. Such permits may be issued only after the Director approves a written propagation program prepared by the applicant.

2. Plants. The Director may permit the artificial propagation and maintenance of plants on the state list. Such permits may be issued only after the Director approves a written propagation program prepared by the applicant.

(d) Falconry. The Director may permit the possession, barter or sale of species of raptors listed on the state list or federal list which have come from captive propagation in compliance with 321 CMR 3.04 and 50 CFR 21, for the purposes of falconry. The Director may permit the taking of Special Concern species for falconry so long as such taking is in accordance with 321 CMR 3.04 and any additional conditions established by the Director designed to insure that such taking does not jeopardize the security of breeding populations of the species within Massachusetts or outside the state.

(e) Public Health. Except as prohibited by federal law, the Director may permit the removal, capture, or destruction of any state listed species to protect human health during the period and within the geographic area of a public health emergency as declared under M.G.L. c. 17, § 2A; **hazard as certified in writing by the Commissioner of Public Health**; provided that the Director has found that all reasonable efforts have been undertaken to avoid the removal, capture or destruction of such species.

(4) Requests for Permits and Information.

(a) Requests for information regarding a Conservation and Management permit should be sent to: Environmental Review, Natural Heritage and Endangered Species Program, Division of Fisheries and Wildlife, Rte. 135, Westborough, MA 01581.

(b) Requests for all other permits should be sent to: Division of Fisheries and Wildlife, 251 Causeway Street, Suite 400, Boston, MA 02114.